

Way Allow-10

LS 5-2629a

OGC HAS REVIEWED.

30 December 1955

MEMORANDUM FOR: Special Support Assistant to the Deputy Director
(Support)

SUBJECT: Education Allowances for Children of [REDACTED]
25X1A

25X1A

1. In a memorandum dated 4 November 1955, this Office stated that the Chief, NEA, in a memorandum dated 20 October 1955, requesting an education allowance for subject, had not presented facts justifying such an allowance as provided in Agency [REDACTED]. The Chief, NEA, in a memorandum dated 1 December 1955, has replied to the last paragraph of our memorandum in which it was suggested that he might present additional facts which would justify the education allowance.

25X1A

2. The Chief, NEA, states that Mr. [REDACTED] is incurring extra expenses for the education of his children due to Agency assignment and requests that for this reason he be reimbursed as provided in [REDACTED]. It is the opinion of this Office that the memorandum of the Chief, NEA, dated 1 December 1955, merely restates the facts presented in his previous memorandum requesting the education allowance. There is no evidence that [REDACTED] has incurred extra expenses solely because of having been put in a position in which his parent service would not have put him in order to carry out the peculiar mission of this Agency. Although his parent service has not assigned men with school age children to the same post, this does not indicate that they do not assign men with school age children to posts where the same difficulties are encountered.

25X1A

25X1A

3. The education allowance provided under [REDACTED] is designed to cover problems encountered by civilian employees of the Agency. Since we are of the opinion that [REDACTED] does not meet the requirements of [REDACTED] permitting civilian allowances for military personnel incurring expenses in excess of those considered normal to military personnel assigned to certain posts, the payment of an education allowance under the authority of [REDACTED] or [REDACTED] would not be legally proper.

25X1A

25X1A

25X1A

25X1A

4. It is recognized that as a practical matter it may have been almost an operational necessity to assign [REDACTED] to

25X1A

SECRET

25X1A this post. However, we note that he had served for one year at the same post and was at headquarters for a short period before agreeing to return for a second year. The area division was well aware of the education problem faced by [REDACTED] but failed to request the desired allowance until he had returned to the post. It would have been preferable, especially from the point of view of the employee, to have ascertained his entitlement to the allowance before returning him to the post. However, the failure to do this does not provide a legal basis upon which to base an expenditure not otherwise authorized by law. If we were to permit payment of the education allowance under the terms of [REDACTED] we would have to permit payment of the allowance for the previous year and in other cases similar to this on the ground that such an allowance is authorized by law. It is not authorized.

25X1A 5. Inasmuch as [REDACTED] is undergoing a real financial hardship and since there is a statement that his services at the post in question are extremely valuable, we would suggest that consideration be given to having the Deputy Director (Support) authorize a reasonable allowance for the current school year under the authority granted him in [REDACTED]. Although this case does not meet the regulatory requirement for an education allowance as such, this Office would not find it legally objectionable if the Deputy Director (Support) were to determine that security posed formidable obstacles to establishing as a fact that the parent service would not have placed [REDACTED] in the position which CIA did. Under such circumstances it would not be inappropriate legally for the Deputy Director (Support) to authorize a reasonable expenditure in this particular case [REDACTED].

FOIab5

25X1A
[REDACTED]
Office of General Counsel

OGC:JDM:mz

Distribution:

- Orig. & 2 - Addressee
- 1 - Subject ✓
- 1 - Signer
- 1 - Legal
- 1 - Vital
- 1 - OGC Chrono